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**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE****Patent Application**

Inventor(s): Olmstead et al.

Case No.: Olmstead 3-1-1-2/LUC-307

Examiner:

Bryan J. Fox

Serial No.: 09/836,988

Art Unit:

2617

Filing Date: 04/18/2001

Title: METHOD AND APPARATUS FOR MIGRATING SUBSCRIBERS BETWEEN
NETWORKS

COMMISSIONER FOR PATENTS

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SIR:

Pre-Appeal Brief Request for Review

Applicant requests review of the final rejection of this application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal and a request for a one month time extension giving applicant until May 21, 2006 to file a timely response following the Advisory Action of April 21, 2006. Thus, this response is timely filed. The review is requested for the reasons stated on the attached sheets (not more than 5 pages).

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Remarks

Applicant requests Pre-Appeal Brief Review of the final office action for reasons stated below.

Claim Rejections - 35 U.S.C. §103:

Claim 1 stands rejected under 35 U.S.C. §103 in view of Mills (U.S. Patent No. 5,890,063) and Ahrens (U.S. Patent No. 5,848,144). This rejection should be reversed as being based on an error of fact and/or failure to state a prima facie ground for rejection.

Applicants respectfully disagree with the rejections as explained below. The discussion of certain differences between the claimed invention and the references is in no way meant to acquiesce in any characterization that one or more parts of the applied references not discussed correspond to the claimed invention.

1. (as currently pending – bold applied for emphasis) A method of migrating subscribers from a first network to a second network, the method comprising the steps of:
transferring at least one connection from at least one other network from a gateway mobile switching center of the first network (GMSC1) to a gateway mobile switching center of the second network (GMSC2);
updating a home location register (HLR) in the second network with routing information about subscribers now served by the second network that were previously served by another HLR in the first network;
directing all call requests from the at least one other network for a subscriber served by one of the first and second networks **directly to the GMSC2**;
wherein the second network employs a network technology different than a network technology employed by the first network
querying the HLR by the GMSC2 for routing information for a destination subscriber upon receiving one of said call requests where the **GMSC2 queries the HLR without requiring routing information obtained in response to a query to the another HLR**;
if routing information for the destination subscriber is available from the HLR in response to the query, the GMSC2 routes the call to the second network;
if no routing information for the destination subscriber is available from the HLR in response to the query, the GMSC2 routes the call to the first network.

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Claim 1 is directed to a method of migrating subscribers from a first network to a second network. At least one connection is transferred from at least one other network from a GMSC1 to a GMSC2. An HLR in the second network is updated with routing information about subscribers now served by the second network. All call requests are sent from the at least one other network for subscriber served by one of the first and second networks directly to the GMSC2. The second network employs a different network technology than the first network. The GMSC2 queries the HLR of the second network for routing information for a destination subscriber upon receiving a call request without requiring routing information obtained by a prior query to an HLR of the first network. If routing information for the destination subscriber is available from the HLR in response to the query, the GMSC2 routes the call to the second network. If no routing information for the destination subscriber is available on the HLR in response to the query, the GMSC2 routes the call to the first network.

Regarding the rejection of claim 1, it was acknowledged in the Office Action that call requests in Mills are directed to the first GMSC, in contrast to the claimed invention where all call requests are sent directly to the second GMSC in a system having two networks with separate HLRs. Ahrens is relied upon as teaching the limitation of sending call requests directly to the second GMSC. It is stated in the Final Office Action, referring to the teachings of Ahrens:

"Further, after a midpoint of migrating subscribers, all traffic is routed to the post-cut switch (see figures 3 and 5a-5d), which reads on the claimed invention that directs all call requests directly to the switch of the second network. The result in combination reads on the claimed 'querying the HLR by the GMSC2 for routing information for a destination subscriber upon receiving one of said call requests where the GMSC2 queries the HLR without requiring routing information obtained in response to a query to the another HLR' ".

Ahrens does not factually support a teaching that would lead one of ordinary skill in the art to the asserted interpretation. Ahrens is directed to a cut-over of wireline telephone subscribers from one wireline switch to another wireline switch. The primary objective

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of Ahrens is to minimize the bandwidth and call handling capacity required by the cut over facility (COF – a hardwired path) that links the pre-cut and the post-cut switches. With regard to the limitations of claim 1, it is important to note in Ahrens that AT ALL TIMES (prior to cut over, during the cut over transition, and post cut over) the call routing table contained in a single call routing table node is always consulted to obtain call routing information. Even though a hardwired call path between switch 504 and switch 506 is in place during the cut over transition, this does not impact on the use of only a single call path routing table/node. That is, the same call routing table contained in its node is ALWAYS CONSULTED for call path information. Hence, Ahrens cannot supply the limitation of claim 1 where all call requests are sent directly to the second GMSC in a system having two networks with separate HLRs. Ahrens has only one call routing table, i.e. one equivalent HLR.

This aspect of Ahrens is discussed in detail; please refer to applicants' communication of January 11, 2006 [incorporated herein by reference], specifically pages 7 – 10 (including a Figure supplied by applicant to help explain how a switch cut-over and call routing is accomplished). Because Ahrens uses a single call routing table (equivalent to a single HLR), it cannot be properly interpreted as teaching the requirement of claim 1 where all call requests are sent directly to the second GMSC in a system having two networks with separate HLRs. This limitation is acknowledged in the Final Office Action of November 15, 2005 as not being taught by Mills. Hence, the combination of Mills and Ahrens does not support a rejection of claim 1 under 35 U.S.C. 103. Reversal of this rejection is believed to be proper and is requested.

Further, Ahrens is directed to a cut-over between two wireline switches in which a hardwired route is needed between the two switches to effectuate the cut-over. Clearly, such an architecture requiring a fixed, hardwired connection is not possible or useful when considering two independent wireless networks where various switches in each network may be used to handle wireless call requests depending on the location of the subscriber. Hence, one of ordinary skill in the art would not have been lead to consider the combination of Ahrens with Mills as proposed by the examiner.

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Informal Objections to Claim 1:

It is believed that claim 1 meets the requirement as to "formalities". It is noted that no rejection of claim 1 is made under 35 U.S.C. 112 in the Final Office Action.

Abbreviations are defined in claim 1 and are believed to be clear. Further, reference to HLR and another HLR are also believed to be proper. See page 6 of applicants' communication of January 11, 2006 which is incorporated herein. Hence, the objection to "informalities" of claim 1 is not believed to be sustainable.

Claim 16:

Independent apparatus claim 16 was rejected on the same grounds as claim 1. The rejection of claim 16 should be reversed for similar reasons explained above for claim 1.

In view of the above remarks, withdrawal of the rejections and/or reversal of the rejections of all claims pending are respectfully requested.

If a telephone conference would be of assistance in advancing the prosecution of this application, feel free to call applicants' attorney.

Respectfully submitted,



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